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UNESCO

E.O. 12065: XDS-4 9/19/99 (HEATER, RUSSELL C.) OR-M
TAGS: UNESCO PORC, SHUM
SUBJ: UNESCO: 108TH SESSION OF COMMITTEE ON
CONVENTIONS AND RECOMMENDATIONS: CONSIDERATION
OF COMMUNICATIONS AGAINST ARGENTINA
REF: PARIS 028441

.. [REDACTED] - ENTIRE TEXT).

1. SUMMARY: THE COMMITTEE DECLARED NINE COMMUNICA-
TIONS ON DISAPPEARED PERSONS ADMISSIBLE, FIVE INAD-
MISSIBLE AND KEPT SEVEN PENDING SUBJECT TO RECEIPT
OF FURTHER INFORMATION. THE NINE ADMISSIBLE CASES
TOGETHER WITH SIX CASES DECLARED ADMISSIBLE AT A
PREVIOUS SESSION WILL BE DEALT WITH IN FUTURE UNDER
THE NEW MISSING PERSONS PROCEDURE ADOPTED BY THE
COMMITTEE (REPORTED REFTEL). IN CASES DECLARED
INADMISSIBLE, THE COMMITTEE AGREED, AT US SUGGES-
TION, TO INFORM THE COMPLAINANTS OF OTHER INTER-
NATIONAL REMEDIES AVAILABLE TO THEM (UN, OAS). THE

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COMMITTEE POSTPONED A DECISION TO ITS NEXT SESSION

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ARGENTINA PROJECT (S200000044)
U.S. DEPT. OF STATE, A/RPS/IPS
Margaret P. Grafeld, Director
Exemption(s):
☒ Release ☐ Excise ☐ Deny
Declassify: ☐ In Part ☒ In Full
☐ Classify as ☐ Extend as ☐ Downgrade to
Date Declassify on Reason

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ON THE GENERAL COMMUNICATION AGAINST THE GOA ALLEGING
HUMAN RIGHTS VIOLATIONS SUBJECT TO THE COMMUNICATION'S
REVISION AND RESUBMISSION BY THE AUTHOR. END SUMMARY

3. THE FIFTEEN ADMISSIBLE DISAPPEARANCE CASES WHICH
WILL BE ON THE COMMITTEE'S AGENDA ANNUALLY IN ACCORD-
ANCE WITH THE NEW MISSING PERSONS PROCEDURE CONCERN:
MANUEL ALBERTO SANTAMARIA (LAW STUDENT), JULIA
ANGELICA BROCCA DE HERRERO (TEACHER), GUSTAVO MARCELO
AND MARIA GABRIELA JUAREZ (SECONDARY SCHOOL STUDENTS),
FEDERICO EDUARDO ALVAREZ ROJAS (PHYSICIST), JORGE
VICTOR SZNAIDER (MATHEMATICS STUDENT), ELSA ALICIA
NOCENT (PSYCHOLOGY STUDENT), RICARDO RODRIGUEZ ANIDO
(STUDENT AND ELECTROMECHANICAL TECHNICIAN), ALEJANDRO
ENRIQUE GUTIERREZ PENETTE (GLAZIER AND STUDENT),
PERLA ELIZABET SCHENEIDER (PSYCHOLOGY STUDENT), JULIA
PATIVIDAD HUARQUE (PHYSICS GRADUATE), MARIA INES
MUCHIUTTI (PSYCHOLOGIST), MARIA SEOANE TOIMIL (TEACHER),
PAUL MATEO MOLINA LUJAN (ARCHITECTURE STUDENT),
MARIA VIRGINIA AURORA ALLENDE CALACE (HISTORY PRO-
FESSOR), AND EDUARDO LUIS RICCI (MEDICAL STUDENT).
TWO CASES IN WHICH THE GOA EXPRESSED PARTICULAR
INTEREST, REPORTING THAT EXTENSIVE INVESTIGATIONS
WERE UNDERWAY, WERE THOSE OF FEDERICO EDUARDO ALVAREZ
ROJAS AND ELSA ALICIA NOCENT.

IN A FEW OF THE CASES DECLARED ADMISSIBLE, THE
GOA ITSELF PROPOSED THEIR ADMISSIBILITY. IN MOST
INSTANCES, HOWEVER, THE GOA SOUGHT A DECISION OF
INADMISSIBILITY OR A DECISION TO KEEP THE CASE
PENDING, ARGUING THAT FURTHER INFORMATION WAS NECES-
SARY TO ESTABLISH THE BONA FIDES OF THE CASE, GIVEN
[REDACTED]
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THE HISTORY OF TERRORISM IN ARGENTINA. IN ONE
INSTANCE, THE GOA PROPOSED THAT A CASE SHOULD BE KEPT
PENDING BECAUSE IT WAS BEFORE OTHER INTERNATIONAL
BODIES. HOWEVER, THE US SUCCESSFULLY COUNTERED (AND
THE CASE WAS DECLARED ADMISSIBLE) THAT BECAUSE A CASE
AS BEFORE OTHER INTERNATIONAL BODIES, ITS CONSIDERA-
TION BY UNESCO SHOULD NOT BE PRECLUDED. THE COMMITTEE
DECIDED IN SUCH CASES TO REQUEST INFORMATION FROM
THE OTHER INTERNATIONAL BODIES SEIZED WITH THE CASE.

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5. CASES WERE DECLARED INADMISSIBLE WHEN THE PROFESSIONS OF THE INDIVIDUALS IN QUESTION DID NOT FALL WITHIN UNESCO'S COMPETENCE. HOWEVER, THE COMMITTEE DECIDED, AT US SUGGESTION, TO INFORM THE COMPLAINANTS OF OTHER INTERNATIONAL REMEDIES AVAILABLE TO THEM (UN, OAS), A DECISION ACCEPTED BY THE COMMITTEE AS A GENERAL PRECEDENT TO BE APPLIED IN FUTURE.

5. IN MOST OF THE CASES KEPT PENDING, DISCUSSION FOCUSED ON WHETHER OR NOT THE PROFESSION OF THE INDIVIDUAL IN QUESTION FELL WITHIN UNESCO'S COMPETENCE. ALTHOUGH THE COMMITTEE AT PREVIOUS SESSIONS TENDED

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TOWARD A BROAD INTERPRETATION OF WHAT CONSTITUTED A STUDENT" AND "EDUCATION", THE COMMITTEE AT THIS SESSION TENDED TOWARD A MORE RESTRICTIVE INTERPRETATION. HUS, IF THE INDIVIDUAL'S PROFESSION WAS LISTED AS BOTH STUDENT AND CARPENTER OR IF THE INDIVIDUAL WAS STUDENT OF TYPING, OR IF THE STUDENT WAS IN THE ARMY, THE COMMITTEE DID NOT AUTOMATICALLY DECLARE THE CASE ADMISSIBLE BUT KEPT IT PENDING SUBJECT TO RECEIPT OF PROOF THAT THE INDIVIDUAL WAS IN FACT A STUDENT OR THAT THE REASON FOR HIS OR HER DISAPPEARANCE RELATED TO ACTIVITIES WITHIN UNESCO'S COMPETENCE. ALTHOUGH SEVERAL DELEGATIONS EXPRESSED RESERVATIONS

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ABOUT THIS RESTRICTIVE INTERPRETATION, OTHERS CAUTIONED THAT THE COMMITTEE WOULD OTHERWISE BECOME SWAMPED WITH CASES AND THAT OTHER INTERNATIONAL BODIES EXISTED TO DEAL WITH CASES OF DISAPPEARANCES.

7. IN THE DISCUSSION OF CASES, MANY REPRESENTATIVES EXPRESSED DEEP CONCERN AT THE LARGE NUMBER OF DISAPPEARANCES IN ARGENTINE AND THE FACT THAT THE GOA [REDACTED]
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HAD NO INFORMATION TO PROVIDE ON THE WHEREABOUTS OF THOSE REPORTED MISSING. THE US REP QUESTIONED THE GOA REP ABOUT THE PROCEDURES FOR INVESTIGATING SUCH CASES, URGING EXHAUSTIVE SEARCHES AND JUDICIAL INVOLVEMENT, AND CAUTIONING AGAINST REQUESTING INFORMATION EXCLUSIVELY FROM MILITARY AND POLICE BODIES ALLEGED TO BE RESPONSIBLE FOR MANY OF THE DISAPPEARANCES.

8. THE COMMITTEE POSTPONED TO ITS NEXT SESSION A DECISION ON THE ADMISSIBILITY OF A GENERAL COMMUNICATION AGAINST THE GOA ALLEGING HUMAN RIGHTS VIOLATIONS. THE COMMUNICATION, SUBMITTED BY THE FRENCH WRITER, JEAN-MARIE DOMENACH, ENTITLED "VIOLATIONS OF HUMAN RIGHTS IN THE FIELD OF SCIENCE, CULTURE AND INFORMATION," CHARGED THE GOA WITH THE FOLLOWING VIOLATIONS IN CONTRAVENTION OF ITS OWN CONSTITUTION AND INTERNATIONAL HUMAN RIGHTS STANDARDS: THE MURDER OR DISAPPEARANCE OF TEACHERS, STUDENTS, WRITERS, PSYCHIATRISTS AND JOURNALISTS; THE IMPRISONMENT WITHOUT DUE PROCESS OR TRIAL OF OTHER PROFESSIONALS; THE BURNING OF BOOKS AND CLOSING DOWN OF NEWSPAPERS AND PUBLISHING HOUSES; AND THE MASS DISMISSALS OF TEACHERS FOR POLITICAL REASONS. APPENDICES SET FORTH EVIDENCE OF THE CHARGES AND INCLUDED LISTS OF BOTH MISSING AND DETAINED PERSONS.

9. FOLLOWING CONSIDERABLE CONTROVERSY IN THE COMMITTEE ABOUT DECIDING ON THE ADMISSIBILITY OF WHAT APPEARED TO BE A "QUESTION," I.E., MASSIVE, SYSTEMATIC OR FLAGRANT VIOLATIONS OF HUMAN RIGHTS WHICH COULD REQUIRE PUBLIC CONSIDERATION BY UNESCO'S EXECUTIVE BOARD, THE COMMITTEE DECIDED UPON A COM-

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PROMISE PROPOSAL. IT REQUESTED THE SECRETARIAT TO "ASK THE AUTHOR TO RESUBMIT THE COMPLAINT IN THE FORM OF INDIVIDUAL CASES AND TO DECIDE (I.E., THE COMMITTEE) AT ITS NEXT SESSION WHETHER THE INDIVIDUAL CASES DECLARED ADMISSIBLE, CONSTITUTE, BY VIRTUE OF THEIR ACCUMULATION, A QUESTION." THE DECISION REFLECTED: 1) THE COMMITTEE'S RELUCTANCE TO DECLARE ADMISSIBLE A COMMUNICATION WHICH MIGHT CONSTITUTE A QUESTION PARTICULARLY SINCE IT WAS THE FIRST TIME THAT THE COMMUNICATION HAD COME BEFORE THE COMMITTEE; 2) THE COMMITTEE'S DESIRE TO PRESERVE CONSENSUS AND COMPROMISE, GIVEN THE DIFFERENCES OF OPINION EXPRESSED ABOUT THE CASE (IT IS POSSIBLE THAT A VOTE MIGHT HAVE RESULTED IN AN ADMISSIBILITY DECISION); AND 3) THE COMMITTEE'S DESIRE NOT TO ALIENATE THE GOA WHOSE COOPERATION WAS SAID BY SOME TO HAVE BEEN FORTHCOMING AND WOULD BE REQUIRED IN FUTURE FOR THE MANY CASES BEFORE THE COMMITTEE.

10. IN THE DISCUSSION, THE US, NIGERIA, SWITZERLAND, AND PORTUGAL MADE STRONG STATEMENTS IN FAVOR OF THE COMMUNICATION'S ADMISSIBILITY. DENMARK, SENEGAL AND THE SUDAN, WHILE CONSIDERING THE COMMUNICATION ADMISSIBLE, SAID IT COULD BE RESUBMITTED TO MEET THE OBJECTIONS OF THE GOA. FRANCE REMAINED ON THE FENCE DRAWING ATTENTION TO THE NEED TO APPROACH THE GOA WITH CONSIDERATION AND AT THE SAME TIME TO FOLLOW THE PROCEDURES. GUATEMALA, PANAMA, AND ROMANIA OPPOSED DECLARING THE COMMUNICATION ADMISSIBLE. THE USSR RECOMMENDED POSTPONING THE DECISION TO THE NEXT SESSION GIVEN THE DIFFERENCES OF OPINION. THE REPRESENTATIVE

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SENTATIVE OF ARGENTINA (PARENTINI) IN A NEAR FILI-
BUSTER APPEALED TO THE COMMITTEE NOT TO CONSIDER
THE COMMUNICATION ADMISSIBLE. HE ARGUED THAT THE
COMMUNICATION WAS ILL-FOUNDED, POLITICALLY MOTI-
VATED, CHALLENGED THE LEGITIMACY OF THE GOA,
INCLUDED OFFENSIVE LANGUAGE AND GROSS ERRORS, PRE-
SENTED A ONE-SIDED DISTORTED PICTURE AND INTERFERED
WITH THE DOMESTIC AFFAIRS AND LEGISLATION OF THE
GOA. THE ARGENTINE REP BEHIND THE SCENES ENGAGED
IN EXTENSIVE LOBBYING WITH CLEAR INSTRUCTIONS TO
ENSURE THAT THE COMMUNICATION WAS NOT DECLARED
ADMISSIBLE.

11. THE DECISION AGREED UPON IS UNCLEAR IN SEVERAL
RESPECTS. FIRST, IT IS UNCLEAR WHETHER THE PHRASE
'AT THE NEXT SESSION' MEANS THAT THE COMMITTEE WILL
DECIDE ON THE COMMUNICATION'S ADMISSIBILITY AT THE
NEXT SESSION AS WELL AS WHETHER THE COMMUNICATION
CONSTITUTES A QUESTION. (GENERAL PRACTISE HAS IT
THAT THE COMMITTEE DECIDED AT ONE SESSION ON A
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COMMUNICATION'S ADMISSIBILITY AND AT ANOTHER SESSION
ON THE SUBSTANCE OF THE COMMUNICATION AND WHETHER
IT CONSTITUTES A QUESTION.) SECOND, IT IS UNCLEAR
WHETHER THE COMMITTEE WILL CONSIDER THE COMMUNICA-
TION AS "ONE" DOCUMENT OR WHETHER IT WILL HAVE
TO DECIDE ON THE ADMISSIBILITY OF EACH INDIVIDUAL
CASE CONTAINED IN THE COMMUNICATION. THIRD, IT
IS UNCLEAR WHETHER OTHER INDIVIDUAL CASES BEFORE

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THE COMMITTEE WILL BE CONSIDERED TOGETHER WITH THOSE IN THE COMMUNICATION WHEN THE COMMITTEE DECIDES WHETHER A QUESTION EXISTS.

12. FOLLOWING THE COMMITTEE'S AGREED UPON DECISION, THE REPRESENTATIVES OF SWITZERLAND, NIGERIA AND PORTUGAL EXPRESSED RESERVATIONS WITH THE OUTCOME, WHICH THEY REQUESTED BE PLACED IN THE RECORD.

13. COMMENT: WHILE THE US AND OTHER DELEGATIONS WERE DISAPPOINTED WITH THE DECISION REACHED, IT IS MOST PROBABLE THE COMMITTEE WILL DECLARE THE COMMUNICATION ADMISSIBLE AT ITS NEXT SESSION. WE HAVE BEEN ASSURED THAT THE SECRETARIAT WILL MAKE EVERY EFFORT TO WORK WITH THE FRENCH WRITER (AND ARGENTINE LAWYERS IN PARIS) WHO PREPARED THE COMMUNICATION TO ENSURE THAT THE RESUBMITTED TEXT IS AN IMPECCABLE DOCUMENT. IT FURTHER SHOULD BE BORNE IN MIND THAT IN NO CASE APPEARING TO BE A QUESTION HAS THE COMMITTEE DECIDED ON ADMISSIBILITY FIRST TIME ROUND. END COMMENT HEATER

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